IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA:

RSA.No.528 of 2007.

Date of Decision :14th November, 2007.

Relu Ram and others. …Appellants-defendants.

Versus:

Mohar Singh Thakur. …Respondent-plaintiff.

Coram:

The Hon'ble Mr.Justice Sanjay Karol, Judge.

Whether approved for judgment?[1]

For the appellants: Mr.Rajiv Jiwan, Advocate. .

For Respondent.

Sanjay Karol, J(Oral).

CMP(M).No.850/2007.

Heard.

The delay of 47 days is not fully explained by the appellants in filing the appeal. As such, the application is dismissed.

RSA. No.528/2007.

In any event, the plaintiff filed a suit for permanent prohibitory injunction restraining the defendants from interfering in the suit property. For the purpose of convenience, the appellants hereinafter referred to as the 'defendants' and the respondent as 'plaintiff'. The trial Court on the pleadings of the parties framed the following issues:

1. Whether the plaintiff has purchased suit land from Smt. Ram Dei and is in possession of the same in view of

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[1] **Whether reporters of Local Papers may be allowed to see the judgment?**

the agreement to sell dated 4.5.2000, as alleged?.
OPP.

2. Whether the plaintiff is entitled for the relief of injunction, as prayed for? OPP.

3. Whether the suit of the plaintiff is not maintainable as alleged? OPD.

4. Whether the plaintiff has no locus standi to file the present suit as alleged? OPD.

5. Whether the plaintiff has no cause of action to file the present suit as alleged? OPD.

6. Whether the suit of the plaintiff is within time?
OPP.

7. Whether the suit of the plaintiff is bad for non-joinder and mis-joinder of necessary parties, as alleged?
OPD.

8. Relief.

In order to prove its case the plaintiff has examined four witnesses. Considering the material on record, the trial Court found the plaintiff to be in possession of the suit property and decreed the suit in favour of the plaintiff as against the defendants vide judgment and decree dated 15th July, 2006.

Aggrieved by the same, the defendants filed an appeal before the District Judge, Mandi which was registered as Civil Appeal No. 120 of 2006. Considering the material on record, the first appellate Court dismissed the appeal in terms of judgment and decree dated 6th June, 2007. Both the Courts below found the plaintiff to be in possession of the suit land. While dismissing the appeal, the first appellate Court has observed that the respondent-plaintiff is in possession of the suit property and can be dispossessed in accordance with law by the rightful owner. The defendants failed to prove the title of the property in question, therefore the suit of the

plaintiff was decreed. Hence, no substantial questions of law arise for consideration as both the courts below have held that the plaintiff is in possession of the suit property.

In view of the observation made by the first appellate Court, the plaintiff can be dispossessed by any person including the defendant in accordance with law. The appeal is accordingly dismissed.

CMP.No.918/2007.

In view of the dismissal of the main appeal, this application is also dismissed.

(**Sanjay Karol),**
Judge.

November 14, 2007(R)